

REMARKS/ARGUMENTS

As a result of this Amendment, claims 2-3, 5-26 and 34-35 are under active consideration in the subject patent application.

In the Non-Final Action, the Examiner:

1) rejected claims 1-3 and 15-22 under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent Application Publication No. 2004/0175690 in the name of Mishra ("Mishra");

2) rejected claims 4, 6-13, 25, and 26 under 35 U.S.C. § 103(a) as allegedly being unpatentable over a proposed combination of Mishra in view of U.S. Patent No. 5,196,020 in the name of Atkinson ("Atkinson");

3) rejected claims 23 and 24 under 35 U.S.C. § 103(a) as allegedly being unpatentable over a proposed combination of Mishra in view of U.S. Patent No. 4,136,746 issued to Tusing ("Tusing");

4) rejected claim 33 under 35 U.S.C. § 103(a) as allegedly being unpatentable over a proposed combination of Mishra in view of Atkinson and U.S. Patent No. 4,690,139 issued to Rosenberg ("Rosenberg"); and

5) objected to claims 5, 14, 34, and 35 as being dependent upon a rejected base claim, but identified each claim as including allowable subject matter.

As a preliminary matter, the Applicants acknowledge with appreciation that the examiner identified claims 5, 14, 34, and 35 as being allowable if rewritten in independent form including all of the limitation of the base claim and any intervening claims.

With respect to Item 1, Applicants have amended claim 5 to include the features of claims 1 and 4 as suggested by the Examiner and to expedite prosecution. No new matter has been added. Claims 1 and 4 have been canceled in view of the amendment to claim 5.

Accordingly, claim 5 is in condition for allowance. Applicants respectfully request reconsideration and allowance of claim 5.

Claims 2, 3, 15, 18, 20, and 22 have been amended to depend from claim 5, and claim 17 has been amended to maintain proper antecedent basis with the claims from which it depends. No new matter has been added. Claims 2, 3, and 14-22 depend from claim 5 and are allowable at least by virtue of their dependence. Applicants respectfully request reconsideration and allowance of claims 2, 3, and 14-22.

With respect to Item 2, Applicants have canceled claim 4 and amended claims 6, 8, and 11 to depend from claim 5. Claims 6-13 depend from claim 5 and are allowable at least by virtue of their dependence. Applicants respectfully request reconsideration and allowance of claims 6-13.

Claim 25 has been amended to recite "a first tissue separator including a base supported by the housing and a plurality of tines extending outwardly from the base, the plurality of tines configured to interdigitate with adjacent cutting blade tips and to remove sliced tissue lodged in the cutting assembly when the apparatus is moved in a first direction; and a second tissue separator including a second base supported by the housing and a second plurality of tines extending outwardly from the second base, the second plurality of tines configured to interdigitate with adjacent cutting blade tips, the second tissue separator configured to dislodge sliced tissue from the blades when the

apparatus is moved in a second direction.” Support for the amendment may be found throughout the application as originally filed, and specifically at, for example, paragraphs 39, 40 and 50-54. No new matter has been added.

Claim 25, as amended, now includes many of the features of the apparatus set forth in claim 34, which was identified by the Examiner as containing allowable subject matter in the Non-Final Office Action. Accordingly, claim 25 is in condition for allowance. Applicants respectfully request reconsideration and allowance of claim 25.

Claim 26 depends from claim 25 and is allowable at least by virtue of its dependence. Applicants respectfully request reconsideration and allowance of claim 26.

With respect to Item 3, claim 23 has been amended to maintain proper antecedent basis with claim 5. Claims 23 and 24 depend from claim 5, which is condition for allowance as set forth above with respect to Item 1. Accordingly, claims 23 and 24 are allowable at least by virtue of their dependence. Applicants respectfully request reconsideration and allowance of claims 23 and 24.

With respect to Item 4, Applicants have amended claim 34 to include the features of claim 33 as suggested by the Examiner and to expedite prosecution. Claim 33 has been canceled in view of the amendment to claim 34.

Accordingly, claim 34 is in condition for allowance. Applicants respectfully request reconsideration and allowance of claim 34.

Claim 35 depends from claim 34 and is allowable at least by virtue of its dependence. Applicants respectfully request reconsideration and allowance of claim 35.

Appln. No. 10/789,620
Docket No.: E3383-00096 (702.246.02)
Amendment in Response to Non-Final OA mailed March 4, 2009

In view of the foregoing, the application is believed to be in condition for allowance. Applicants respectfully request a Notice of Allowance to be timely issued.

No fee is believed to be due in connection with this response. However, the Director is hereby authorized to deduct any charges from, or credit any overpayment to, Deposit Account No. **04-1679**.

If a telephone conference would be of assistance in advancing prosecution of the above-identified application, Applicants' undersigned Attorney invites the Examiner to telephone him at **215-979-1837**.

Respectfully submitted,

Dated: May 11, 2009

/Jarrad M. Gunther/
Jarrad M. Gunther
Registration No. 63,903
Customer No. 08933
DUANE MORRIS LLP
30 South 17th Street
Philadelphia, PA 19103-4196
Tel.: (215)979-1837
Fax: (215) 689-4921
jmgunther@duanemorris.com